

Deposition of Kathy Newcomb, taken on 11/18/2015
courtreporter@mixonreportingservice.com

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE MIDDLE DISTRICT OF GEORGIA
3 ALBANY DIVISION
4 MICHAEL NEWCOMB and KATHY)
5 NEWCOMB,)
6)
7 Plaintiffs,)
8) Civil Action File
9) vs.)
10) No. 1:15-CV-00080-LJA
11 SPRING CREEK COOLER, INC.;)
12 SPRING CREEK PRODUCE, LLC;)
13 SF FARMS, INC.; SF EXPORTS,)
14 INC.; T & L FARMS, INC.;)
15 TERRIL SCOTT PROPERTIES,)
16 LLC; TERRIL SCOTT FARMS,)
17 LLC; WALDINE B. SCOTT FARMS,)
18 LLC; EDDIE T. SCOTT FARMS,)
19 LLC; T S EQUIPMENT LEASING,)
20 LLC; L & W FARMS, LP; TERRIL)
21 SCOTT; and JOHN DOE, Name)
22 Unknown, Address Unknown,)
23)
24 Defendants.)

25 -----

16 Videotaped Deposition of KATHY C.
17 NEWCOMB, called by the Defendants, taken pursuant to
18 the Federal Rules of Civil Procedure, was reported
19 by Debbie Paulk Mixon, Certified Court Reporter,
20 Registered Professional Reporter, Certified Realtime
21 Reporter, and Notary Public, at the offices of
22 Gardner, Willis, Sweat & Handelman, LLP, 2408
23 Westgate Drive, Albany, Georgia, commencing at
24 approximately 3:10 p.m. on the 18th day of November
25 2015 and concluded on the same date.

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1 A P P E A R A N C E S

2

For the Plaintiffs,

3 MICHAEL NEWCOMB and KATHY NEWCOMB:

4 J. JEFFERY HELMS, Esquire
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7

8 For the Defendants,

9 SPRING CREEK COOLER, INC.; SPRING CREEK PRODUCE,
LLC; SF FARMS, INC.; SF EXPORTS, INC.; T & L FARMS,
INC.; TERRIL SCOTT PROPERTIES, LLC; TERRIL SCOTT
10 FARMS, LLC; WALDINE B. SCOTT FARMS, LLC; EDDIE T.
SCOTT FARMS, LLC; T S EQUIPMENT LEASING, LLC; L & W
11 FARMS, LP; TERRIL SCOTT; and JOHN DOE, Name Unknown,
Address Unknown,

12

MARK PICKETT, Esquire
13 Gardner, Willis, Sweat & Handelman
P.O. Drawer 71788 (31708-1788)
14 2408 Westgate Drive
Albany, Georgia 31707

15

16

17 Also Present: Mr. Michael Newcomb
Mr. Jimmy Mixon, Videographer

18 -----

19 PRELIMINARIES:

20 (Disclosure submitted to all counsel.)
21 (Videotaping Started)

22 VIDEOGRAPHER: Okay. We're on the
23 record.

24 MR. PICKETT: Okay. This will be the
25 deposition of Kathy Newcomb, taken pursuant to

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1 notice, by agreement of counsel as to time and
2 place, taken on cross-examination -- she is an
3 adverse party -- for discovery purposes and all
4 other purposes allowed under the Georgia Civil
5 Practice Act. May we also reserve objections as to
6 this deposition until time of use?

7 MR. HELMS: Sure.

8 MR. PICKETT: And there are no --
9 there are no objections as to notice, qualification
10 of the court reporter, or qualification of the
11 videographer?

12 MR. HELMS: True.

13 MR. PICKETT: Is she going to want to
14 read and sign as well?

15 MR. HELMS: She will.

16 MR. PICKETT: All right. If you will
17 place her under oath, please.

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1 KATHY C. NEWCOMB

2 having been first duly sworn, was examined and
3 testified as follows:

4 CROSS-EXAMINATION

5 BY: MR. PICKETT

6 Q. Thank you. Ms. Newcomb, you are a party
7 to this action?

8 A. Yes.

9 Q. Okay. And as the Plaintiff in this
10 action, were you present for all parts of the
11 deposition of your husband, Michael Newcomb?

12 A. Yes.

13 Q. Particularly in the beginning I went
14 over with him some rules and guidelines about how we
15 take depositions. Do you remember that?

16 A. Yeah.

17 Q. Okay. And if you don't, I can go over
18 it all with you. But to save time, if you were --

19 A. No. I can remember.

20 Q. -- paying attention --

21 A. Yeah.

22 Q. Okay. So if you -- can you follow those
23 same directions?

24 A. Yes.

25 Q. Okay. Can we have the same agreements

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1 that he and I talked about?

2 A. Yes.

3 Q. Okay. Would you state your name for the
4 record, please.

5 A. Kathy C. Newcomb.

6 Q. And, Ms. Newcomb, if you could, just
7 fairly briefly give me an educational background.

8 A. Graduated high school, attended two
9 years of business college for medical office
10 assistant.

11 Q. Anything else?

12 A. That's it.

13 Q. Okay. I thought that I had understood
14 from mediations that you were -- you worked as a
15 nurse?

16 A. No. You guys thought that.

17 Q. Oh, okay. Well, I've been wrong before.
18 Now I am again.

19 A. I actually worked in the hospital --

20 Q. Okay.

21 A. -- telemetry tech and then unit
22 secretary. I had got -- injured my back. I was an
23 assistant, a nursing assistant.

24 Q. Okay.

25 A. Yeah.

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1 Q. Okay. So have you had some nursing
2 training?

3 A. Just the -- like CNA part of it.

4 Q. Okay.

5 A. Like certified nursing assistant.

6 Q. Yeah.

7 A. Yeah.

8 Q. So you have had -- you had some training
9 as a CNA?

10 A. Yeah.

11 Q. All right. So you had -- what year did
12 you graduate high school?

13 A. '83.

14 Q. And from what high school?

15 A. Bordentown Regional High School.

16 Q. Borden--

17 A. New Jersey, yeah.

18 Q. Bordentown, New Jersey. And then after
19 high school, you had two years of --

20 A. Business community college. I had that
21 in Alabama, actually.

22 Q. Okay. That was when y'all lived in
23 Oxford?

24 A. Yeah, yes.

25 Q. And what sort of training was that,

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1 business college training?

2 A. Medical office assistant.

3 Q. Okay.

4 A. Anything to do with the office.

5 Q. Medical office assistant was --

6 A. Billing, yeah.

7 Q. I think you said that. I just wasn't
8 paying attention. And then in addition to that, you
9 also had training -- you had the certified nursing
10 assistant training?

11 A. Correct.

12 Q. Where did you have that?

13 A. Geisinger Medical Center.

14 Q. And when was that?

15 A. I worked there the last ten years.

16 Q. So you had the training kind of at the
17 beginning of that ten years?

18 A. Yeah, all throughout. Like every six
19 months we go for recertifications.

20 Q. Okay. To get your initial
21 certification, was there a period of training you
22 had to go through?

23 A. Yeah, first six weeks of your
24 employment. So November 2005, I would say.

25 Q. Okay. So they put you through that at

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1 the very beginning of your employment --

2 A. Correct.

3 Q. -- as part of your job, basically?

4 A. Uh-huh (positive response).

5 Q. Other than that training and the two
6 years of business college and high school, any other
7 education that you have?

8 A. No.

9 Q. You ever been in the military?

10 A. No.

11 Q. Where were you born?

12 A. Trenton, New Jersey.

13 Q. Okay. Other than -- I know Bordentown,
14 obviously, and then you're in Danville,
15 Pennsylvania, now and you lived in Oxford, Alabama,
16 I know, for some years, is there anyplace else that
17 you've lived?

18 A. As a child I lived in Florida.

19 Q. Okay. Where in Florida?

20 A. I think it was Springfield,
21 Spring-something. I don't remember. I was young.

22 Q. How old were you when you lived in
23 Florida?

24 A. Like seven.

25 Q. Okay. How long were you there?

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1 A. Like three years, probably.

2 Q. Other than those three years in Florida
3 and the places that I've already named, have you
4 ever lived anywhere else?

5 A. No.

6 Q. Ever lived in Georgia?

7 A. No.

8 Q. Any family in Georgia?

9 A. No.

10 Q. Do you have any family still in Florida?

11 A. No.

12 Q. Was that your dad was just working down
13 there for a while or something?

14 A. Correct.

15 Q. Okay. What was his business?

16 A. He worked at the gas station, BP gas
17 station, Phillips 66 --

18 Q. Okay.

19 A. -- them kind of things.

20 Q. Did he do that before he went to Florida
21 or --

22 A. Yes, uh-huh (positive response).

23 Q. And then he moved to that location doing
24 the same thing?

25 A. Correct.

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1 Q. The company moved him down there,
2 basically?

3 A. Well, my grandmother moved down there,
4 so my mother wanted to move down there. So he got a
5 transfer.

6 Q. Okay.

7 A. Yeah.

8 Q. And then ultimately moved back?

9 A. Correct.

10 Q. Now, do you still have any Florida
11 family?

12 A. No.

13 Q. Can you give me a brief work history?
14 When I say "brief," I mean not necessarily the
15 number of years but in the amount that you need to
16 tell me about each job.

17 A. Okay. My grandmother owned a deli.

18 Q. Okay.

19 A. So I worked at the deli from the time I
20 was 16 to the time I was 21, probably.

21 Q. Okay.

22 A. Then we moved to -- I met Mike. I was
23 22. So moved to Alabama. I worked -- gosh. I was
24 a manager of a furniture store.

25 Q. Okay.

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1 A. And that was it there. And then worked
2 at the convent in Danville, Pennsylvania, as a
3 nursing assistant --

4 Q. Okay.

5 A. -- for about five years. Then I worked
6 at Geisinger.

7 Q. Okay? Now, was -- the convent, which
8 convent was it?

9 A. Holy Family Convent --

10 Q. And --

11 A. -- Christian charity.

12 Q. Okay. At that convent, is that where
13 you got your CNA training?

14 A. I had some there, too, yeah.

15 Q. Okay.

16 A. Geisinger trains you to how they want
17 you, regardless of what training you have.

18 Q. Okay. So you got your certification
19 while you were at the convent?

20 A. At Geisinger.

21 Q. Okay.

22 A. Yeah. You didn't have to be certified
23 at the convent.

24 Q. Okay. What type of work did you do at
25 the convent?

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1 A. Took care of nuns --
2 Q. Okay.
3 A. -- every basic need.
4 Q. So you were basically a personal
5 caretaker?
6 A. Correct.
7 Q. And then when you went to Geisinger,
8 what did you start off doing there?
9 A. Nursing assistant.
10 Q. Doing the same sort of thing in the
11 hospital that you'd been doing?
12 A. Correct, uh-huh (positive response).
13 Q. Okay. How long did you do that?
14 A. That particular part of that job?
15 Q. Uh-huh (positive response).
16 A. Probably five years.
17 Q. You stayed at Geisinger but in a
18 different position?
19 A. Yes.
20 Q. And what was your --
21 A. I was also a telemetry tech. We watch
22 the heart monitors --
23 Q. Okay.
24 A. -- of each patient on the floor. And
25 then like I'd tell the nurse or anybody if something

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1 was going on with their heart. And then --

2 Q. It there -- I'm sorry. Is it like a
3 bank of monitors --

4 A. Yeah.

5 Q. -- for every room someplace?

6 A. Yeah.

7 Q. So --

8 A. And I'm sitting there watching
9 everybody.

10 Q. Okay. So you're watching all of these
11 monitors, and if one of them pops up something a
12 little --

13 A. Right.

14 Q. -- abnormal, you'll notify the nurse for
15 that room?

16 A. Call code, yeah, uh-huh (positive
17 response).

18 Q. Okay. And there's some special
19 training, you have to be able to decipher what all
20 those beeps and number and flashes of lights and all
21 that stuff means?

22 A. Uh-huh (positive response), yes.

23 Q. Okay. Geisinger provided that to you?

24 A. Yes.

25 Q. Okay. And what else have you done at

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1 Geisinger besides nursing assistant and telemetry
2 tech?

3 A. Unit secretary.

4 Q. And what does a unit secretary do?

5 A. I got ready the admissions, discharges,
6 prescriptions, ordered their lunches, their meals,
7 everything for a patient --

8 Q. Okay.

9 A. -- like paperwork-wise.

10 Q. Okay. Any kind of paperwork a patient
11 needed, it came through you?

12 A. Correct.

13 Q. All right. What else have you done at
14 Geisinger?

15 A. That's it.

16 Q. Okay. And what are you currently doing
17 there? Are you still there?

18 A. No.

19 Q. Okay. When did you leave there?

20 A. The last year.

21 Q. Okay. What was the last month that you
22 worked?

23 A. Let me think. I think October.

24 Q. October of 2014?

25 A. Yes. I want to say yes.

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1 Q. Okay. So just over a year ago from now?

2 A. Yeah, yes.

3 THE WITNESS: Sorry.

4 Q. And at that point, were you still -- you
5 were still unit secretary?

6 A. Yes.

7 Q. And why did you leave?

8 A. I injured myself in '05 lifting a
9 patient at work. So I -- Geisinger, I had three
10 back surgeries, then another surgery. So the time
11 off that I had was coming out of my own bank, like
12 out of my own personal buildup time, which it should
13 have come from Geisinger, because I injured myself
14 at work.

15 Q. Okay.

16 A. So ended up, went and talked with a
17 lawyer about Workmen's Comp --

18 Q. Okay.

19 A. -- getting paid the time off. And they
20 covered my medical, and I continued working for the
21 ten years that I was there. And once the ten-year
22 mark was up -- it just got shady, say. So went back
23 to court. I reinjured myself and went back to court
24 to get reinstated Workmen's Comp, the benefits of my
25 time -- I wanted paid time off, not out of my own

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1 bank. So ended up in between the weeks before my
2 court, they so-called fired me. Went to my hearing,
3 the judge seen my way. And I left, officially
4 resigned from Geisinger.

5 Q. Okay. So you reinjured your back at
6 work?

7 A. Yeah, yeah. I continually had flare-ups
8 throughout the ten years. But I liked to work.
9 Like I didn't like to not work.

10 Q. Okay.

11 A. During those flare-ups, I had FMLA. And
12 it was always time I earned. So I always ended up
13 paying myself instead of the employer paying me.

14 Q. You were taking vacation time instead of
15 having --

16 A. Exactly.

17 Q. -- indemnity benefits from your
18 employer?

19 A. Correct.

20 Q. Okay.

21 A. And that was part of the original
22 agreement when we went to court in the beginning,
23 was they were supposed to take care of my medical
24 plus any flare-ups I would have, I would take my
25 time off. But I worked. I really didn't need much

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1 time off. But it was always a problem. So finally
2 they -- we came to a point where we weren't
3 agreeing.

4 Q. Have you sought any work since then?

5 A. No.

6 Q. Do you intend to go back to work?

7 A. Huh-uh (negative response), no.

8 Q. Have you --

9 A. I really can't.

10 Q. Because of your back?

11 A. Uh-huh (positive response).

12 Q. Do you -- have you applied for Social
13 Security benefits?

14 A. I just did.

15 Q. Okay. So that's in the process as well?

16 A. Yeah.

17 Q. What is your date of birth?

18 A. 9/25/65.

19 Q. Social Security number?

20 A. xxx-xx-xxxx.

21 Q. I'm sorry. Let me write it down for
22 you. xxx-xx--

23 A. xxxx.

24 Q. Okay.

25 MR. HELMS: You agree, don't you,

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1 Mark, that we'll --

2 MR. PICKETT: Yes, yes, yes. You can
3 drop -- remove it from the transcript.

4 Q. Other than your marriage to Robert (sic)
5 Newcomb, have you ever been married to anyone else?

6 A. Michael Newcomb.

7 Q. Pardon?

8 A. You said Robert.

9 Q. I did.

10 A. Michael.

11 Q. Yes, Robert. Other than -- how many
12 times you been married?

13 A. Once.

14 Q. Okay. Other than the children that
15 we've already heard about that you have with
16 Mr. Newcomb, have you -- do you have any other
17 children?

18 A. No.

19 Q. What is your maiden name?

20 A. Cavanaugh.

21 Q. C-A-V-A-N-A-U-G-H?

22 A. Correct.

23 Q. Other than Kathy Newcomb and Kathy
24 Cavanaugh, have you ever gone by any other names?

25 A. No.

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1 Q. You have any nicknames?

2 A. No.

3 Q. You go by Kathy?

4 A. Correct.

5 Q. As the member of the family with the
6 medical background, do you oversee his medical
7 bills, Mr. Newcomb's?

8 A. All the bills I take care of now, yeah.

9 Q. Okay. Do you know: Has -- does he have
10 any unpaid medical bills?

11 A. I don't -- I don't know. He might have
12 a couple of like co-payments or something --

13 Q. Okay.

14 A. -- yeah.

15 Q. What medical bills have you had to pay
16 out of pocket?

17 A. For his injury?

18 Q. Yes, ma'am.

19 A. Out of pocket?

20 Q. Yes.

21 A. None.

22 Q. It's all been covered either by his
23 health insurance or his Workers' Comp?

24 A. Correct.

25 Q. Has any of it been paid by health

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1 insurance or all by Workers' Compensation?

2 A. In the beginning it was coming both,
3 health insurance and Workmen's Comp. And then that
4 got straightened out. I don't know if the health
5 insurance was reimbursed. But it's all coming out
6 of Workmen's Comp now.

7 Q. Okay. And are his -- he's told me he's
8 continuing to go to the doctor once a month to be
9 monitored and once every three months for Botox and
10 then may go back for a check on -- make sure his
11 plate's doing okay.

12 A. Correct.

13 Q. All that's being paid by Workers' Comp?

14 A. Correct.

15 Q. When he goes to see his physicians, do
16 you go with him?

17 A. Yes, most of the time.

18 Q. Okay.

19 A. The independent medical examiner, they
20 came and pick him up, I didn't go with him that
21 time.

22 Q. Okay. And that was --

23 A. I believe you said April, maybe.

24 Q. Dr. Horchos?

25 A. I believe so.

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1 Q. April of this year at Northeastern
2 Rehab?

3 A. Correct.

4 Q. Okay. That was something his Workers'
5 Comp -- his employer arranged through Workers' Comp
6 for him to go have an IME?

7 A. Right.

8 Q. And you did not go with him to that?

9 A. I did not.

10 Q. Okay. And when you go with him to his
11 medical appointments, do you sit out in the lobby
12 and wait on him or do you go in with him as he talks
13 to the doctor?

14 A. Family doctor, I go in with him.

15 Q. Okay. That's Dr. Eckel?

16 A. Correct. His neurologist, I sit
17 outside. I don't really want to watch her give him
18 39 shots of Botox.

19 Q. Okay.

20 A. And he has a nurse that accompanied him,
21 went in from Workmen's Comp. So I felt like he was
22 fine.

23 Q. Okay.

24 A. And Azeredo.

25 Q. Is that Dr. Eckel?

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1 A. Eckel is his family doctor.

2 Q. I'm sorry.

3 A. The neurologist is Dr. Kelley.

4 Q. Thank you. Okay. And then other than

5 Dr. Kelley, Dr. Eckel, and then the IME physician,

6 Dr. Horchos, what other doctors have you been with

7 him to see?

8 A. Was it Raju? I think I attended that

9 IME with Dr. Raju.

10 Q. That was another IME?

11 A. Uh-huh (positive response), yes.

12 Q. When was that one?

13 A. Probably a year prior to that one, the

14 one in April.

15 Q. So April of '14, 2014?

16 A. I would guess.

17 Q. Okay.

18 A. I'm not for sure.

19 Q. Any other doctors that you know about

20 that he's been to?

21 A. The eye doctor.

22 Q. And what's his name?

23 A. I can't recall.

24 Q. Did you go with him to see him?

25 A. It's Geisinger, though.

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1 Q. It's at Geisinger?

2 A. Yes.

3 Q. Okay.

4 A. I went with him, but they don't let you
5 go in the back.

6 Q. Any doctors for his hearing, other than
7 what we've already talked about?

8 A. No, not -- huh-uh (negative response).

9 Q. And he had a surgery. Who performed
10 that surgery?

11 A. Dr. Azeredo. For his head?

12 Q. Yes.

13 A. Azeredo and a neurologist. I can't
14 recall his name.

15 Q. And did you go with him for followup
16 treatments with them?

17 A. Yes.

18 Q. When you were at Geisinger, did you work
19 with any of those physicians?

20 A. No.

21 Q. Do you have any family members that work
22 at Geisinger now --

23 A. No.

24 Q. -- or that have worked at Geisinger
25 during his treatment?

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1 A. No.

2 Q. Do you have any family members that have
3 worked -- or friends that have worked in any of the
4 offices of any physicians he's been to?

5 A. No.

6 Q. Has he, for financial reasons, been
7 unable to get any medical treatment that he needed?

8 A. No.

9 Q. Has he for any other reason been unable
10 to get any other -- any medical treatment that he
11 needed?

12 A. No.

13 Q. Has he for any medical or other --
14 excuse me; financial or other reason been unable to
15 get any test or treatment that he needed?

16 A. No.

17 Q. Does he have any concern that anything's
18 going to stop him from getting any future medical
19 treatment that he needs?

20 A. I think he's concerned about the Botox.
21 It's quite expensive.

22 Q. Okay. He's been having those
23 treatments --

24 A. Correct.

25 Q. -- already? And who's been paying for

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1 those?

2 A. Workmen's Comp.

3 Q. Is he worried they won't continue to pay
4 for them?

5 A. Correct.

6 Q. Do you have any understanding as to why
7 they wouldn't continue to pay for them?

8 A. No. I just know it's one of his
9 worries.

10 Q. Okay. Do you share that concern?

11 A. No. I think everything will work out.

12 Q. When did you last go with him to the
13 doctor?

14 A. This month.

15 Q. Okay.

16 A. He saw Eckel.

17 Q. Okay.

18 A. I want to say the 3rd or the 4th.

19 Q. And so you went with him for his monthly
20 visit?

21 A. Correct.

22 Q. Y'all traveled here from Danville?

23 A. Correct.

24 Q. And I think he told us you stopped one
25 night along the way and then drove the rest of the

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1 way to Valdosta?

2 A. Correct, to, yeah, Georgia, you mean?

3 Q. Yeah. Stopped in, I believe, Gaffney,
4 South Carolina?

5 A. Correct.

6 Q. And he drove all the way from Danville
7 to Gaffney?

8 A. Yeah.

9 Q. And then --

10 A. We left on Saturday. And we've stayed
11 in four motels, so --

12 Q. Okay. Where was -- the first one's in
13 Gaffney?

14 A. I believe so.

15 Q. Second one was in Valdosta?

16 A. I believe so.

17 Q. And where would have been the third and
18 fourth?

19 A. We stayed three nights in a Super 8 and
20 one night in Econolodge. That's all I know. I
21 don't know exactly where.

22 Q. Okay. So I'm thinking the one night
23 would have been in Gaffney?

24 A. Correct.

25 Q. And the three nights would have been in

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1 Valdosta?

2 A. Probably.

3 Q. Okay.

4 A. No. One night in Albany. We stayed

5 here.

6 Q. Oh, last night --

7 A. Yeah.

8 Q. -- you stayed here in Albany?

9 A. Yeah. Sorry.

10 Q. Okay. And you will stay here again

11 tonight and travel home tomorrow? Is that the plan?

12 A. No. I'm going to try to head out

13 tonight --

14 Q. Okay.

15 A. -- when we're done with you.

16 Q. As far as driving from Danville to

17 Gaffney, he did all that driving?

18 A. Correct.

19 Q. And from Gaffney to Valdosta he did all

20 that driving?

21 A. Correct.

22 Q. And from Valdosta to Albany he did all

23 that driving?

24 A. Correct.

25 Q. Is there any reason why you wouldn't

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1 have done any of that driving?

2 A. I -- a month ago I -- like I have this
3 big -- I hate to give you more typing. But I have a
4 big dining room table. I set my cell phone on -- I
5 have a big lab, too. And he jumps up. I stepped
6 back. And my other chocolate lab had laid down
7 behind me. When I stepped back, I fell. And the
8 black lab brought the bench to the table. And it
9 crushed me right here.

10 So I saw I Eckel, and he believes I
11 cracked a rib. So I really can't drive. Like I
12 can't do the turning and stuff. But he like -- it's
13 part of his freedom. And I think when they took his
14 CDL, they took his freedom.

15 Q. Right.

16 A. So for me to be his co-driver -- like I
17 don't sleep in the car. I'm constantly telling him,
18 making sure he's paying attention, you know. So he
19 does okay as long as somebody's there to keep him on
20 task.

21 Q. But by you being in the car with him,
22 that allows him to be able to drive?

23 A. Yeah.

24 Q. Okay. He prefers to drive to have his
25 freedom?

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1 A. Correct.

2 Q. You are not working now, so you're home
3 most all day most days?

4 A. 24/7.

5 Q. And he is not working, so he's also home
6 most days?

7 A. Correct.

8 Q. Tell me what he does on a daily basis,
9 just an average day.

10 A. Not much. Let me see. Some days Mike
11 will sleep the whole 24 hours, from the time he gets
12 up, he'll eat, lay back down, go to sleep. He'll
13 lay there and watch TV and sleep throughout the
14 whole day. Other days he is -- the bathroom, want
15 to fix the bathroom. Goes and we get the material,
16 everything. Then days go by. It's another day of
17 he wants to sleep. Then the next day he's going to
18 put the ceiling fan in.

19 He just cannot stay focused. So used to
20 he ran the house, maintained the house, did
21 everything. Now I can't really say he does much.
22 He can't stand if I vacuum. He can't stand the
23 noise. He may take a walk, he may go hunting with
24 my son. But even that changed from -- he can't
25 shoot a rifle or a shotgun. Like he can't hunt that

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1 way, so he has to hunt bow. So that's, I guess, a
2 little different. He's just --

3 Q. What are some other things that he can
4 no longer do that he used to be able to do?

5 A. We have no sex life, intimacy. He is
6 constantly use -- you probably saw some,
7 argumentative. He used to pay the bills. He gets
8 the mail. He'll -- that's the one thing he does do
9 every single day, is go out and get the mail. And I
10 don't know what he does with half of it. So it's
11 been -- it's been a problem.

12 Q. Anything else that you can think of that
13 he cannot do now that he could do before?

14 A. He doesn't remember, so it's like I have
15 to be there. Like it's like my child instead of my
16 husband. I have to remind him to take his pills,
17 remind him everything.

18 Q. And the pills he's taking are the
19 OxyContin?

20 A. Correct.

21 (Mr. Newcomb exited the deposition
22 room.)

23 Q. And Lexapro and --

24 A. Oxycodone. He takes OxyContin and
25 oxycodone.

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1 Q. He takes both?

2 A. Uh-huh (positive response).

3 Q. Okay. At the same time?

4 A. No. Takes the 40 milligram OxyContin

5 7:00 in the morning and 7:00 at night. And then has

6 three oxycodone, 10 milligram, he can take

7 throughout the day for breakthrough. So usually

8 he'll take two of them, one at night, during the

9 night.

10 Q. Okay. And this is for headaches?

11 A. Yeah.

12 Q. Does he ever complain about pain

13 anywhere else?

14 A. No.

15 Q. And he takes blood pressure medicine?

16 A. Correct. Which he's on a very small

17 dose. I think it's 25 milligrams.

18 Q. How did you learn that he'd had this

19 accident?

20 A. He called me.

21 Q. Where was he when he called you? Do you

22 know?

23 A. Georgia. He was in the ER --

24 Q. Okay.

25 A. -- here.

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1 Q. What did he tell you?

2 A. That he got hit by a forklift and he was
3 getting stitches put in his head and he'd call me
4 back. And then --

5 Q. Okay.

6 A. -- it wasn't much, like -- I thought,
7 "Oh, my God," you know. And he was like, "No.
8 They're just stitching me up. So I'm going to --
9 they're coming to pick me up. After they stitch me
10 up, they're coming to pick me up and take me back to
11 my truck." So I don't know, in Pennsylvania, what
12 the extent of it was, until he came home. And that
13 was like terrible.

14 Q. How was he when he got home?

15 A. His whole head was like swelled up. His
16 eye was swelled shut, and he had this bandage around
17 his head. It was horrible. So I was like, "Mike, I
18 need to look at your head, like to see what they
19 have underneath there."

20 Q. Okay. And what -- in relation to when
21 the accident occurred, what day was this? Was this
22 the next day?

23 A. The second or third day.

24 Q. Second or third day after the accident?

25 A. Yeah.

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1 Q. Okay.

2 A. When he got back to the house.

3 Q. And had he had any medical treatment
4 since then, after the initial treatment?

5 A. No.

6 Q. Okay. And so go ahead. I'm sorry.

7 A. So I said, "I need to see your head." I
8 took the bandages off. And I was like, "This
9 doesn't look good." And I was like, "Let's go to
10 the ER. I just think this is more involved than
11 stitches." It was horrible. And he couldn't hear
12 out of his ear, and he couldn't -- he could not get
13 his eye open.

14 So I took him there. They cut out some
15 stitches, cleaned it out. And then we saw Eckel.
16 And then from Eckel, ear, nose, and throat,
17 neurology.

18 Q. Who was the ear, nose, and throat
19 doctor?

20 A. Azeredo.

21 Q. Okay. And the neurologist was
22 Dr. Kelley?

23 A. Correct.

24 Q. Okay. And then what happened next?

25 A. I kept -- Mike had gone to a couple of

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1 his appointments with the nurse from Workmen's Comp.
2 And I wasn't liking the answers all the time, so I
3 started going.

4 Q. What were you not liking about the
5 answers?

6 A. He told me, "I'm going to be fine, soon
7 as the stitches come out."

8 Q. Okay.

9 A. Like I'm like -- but I could tell the
10 difference in him. I could tell his personality had
11 changed, too. Like you could just see. He was
12 tired. He actually believed that he was going to be
13 fine.

14 So he talked me into letting him have
15 his knee redone after he fell down the stairs. I
16 said yeah. He actually -- we believed basically he
17 could get his knee done for when he went back to
18 work, he would not have that problem.

19 Q. Uh-huh (positive response).

20 A. You know, like we didn't -- I didn't
21 think it was going to be as bad as it is. When they
22 said it was a CSF leak, I -- you know, he had fluid
23 coming out of his ear. I was like, "That's not
24 normal." So Azeredo checked the fluid, and it was
25 spinal and brain fluid coming out of his ear.

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1 Q. Okay. Let me pause you just a second,
2 go back. You said you could notice -- you were not
3 happy with the answers because you noticed some
4 personality changes?

5 A. Correct.

6 Q. And one you said was because he was
7 tired a lot?

8 A. Yeah.

9 Q. What other personality changes did you
10 notice at that point?

11 A. My son had come home from the Army. He
12 was gone 5-1/2 years. And Mike was throwing him out
13 every other day. Like I don't -- his shoes were in
14 the living room. And like that's not Mike. He's so
15 close to his son, Nicholas. And he was like, "This
16 isn't the army. You're going to pick up." Like he
17 would just become this person that was not Mike.
18 And Nick was like -- my children were so confused.
19 I have them coming to me, and I have Mike coming to
20 me. Couldn't take it.

21 Q. What else? Anything else you noticed
22 about his personality changing?

23 A. Argumentative. He couldn't stay on
24 task. He would cry, like with pain. And not
25 even -- he doesn't remember. That's what gets me

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1 the most, is he doesn't remember.

2 Q. Was he taking any painkillers at that
3 point?

4 A. No, not -- I don't believe he -- when he
5 drove the truck home, he was only taking Tylenol.

6 Q. Okay.

7 A. Yeah. He ate the whole bottle. I was
8 like that's not good, either.

9 Q. When he went to the emergency room when
10 he first got back two or three days later, did they
11 give him painkillers at that point?

12 A. I don't -- I don't know. I don't
13 remember.

14 Q. Okay.

15 A. They may have. They may have give him
16 like a Percocet.

17 Q. How long was it after that he got back
18 that you noticed his personality changes to start?

19 A. Days.

20 Q. Within a few days after he got home?

21 A. Right.

22 Q. Did they continue to get worse?

23 A. Yes.

24 Q. Were there more of them?

25 A. Yes.

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1 (Mr. Newcomb re-entered the deposition
2 room.)

3 Q. What other personality changes were
4 there?

5 A. He can't stay on task. He's -- he gets
6 irate. Almost a rage comes about him, where he
7 cannot control it. Argues with me, which I would
8 much rather him argue with me than the children.
9 But even that is getting to the point where I didn't
10 think I was going to take much more of that myself.
11 So I don't -- I don't know how to explain it. He's
12 like Dr. Jekyll and Mr. Hyde. He's totally fine one
13 minute and not the next.

14 Q. Okay. And have you discussed those
15 issues with these physicians?

16 A. Yes.

17 Q. And what do they say?

18 A. Eckel put him on Lexapro --

19 Q. Okay.

20 A. -- to try to help, maybe that would help
21 the headaches but it would definitely help his mood.

22 Q. And has it helped?

23 A. Yes. He cannot miss a dose of that.

24 Q. Okay.

25 A. He -- I forget what you asked me.

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1 Q. Has he seen any other mental health
2 professionals, or any -- has he seen any mental
3 health professional at all, psychologist,
4 psychiatrist, counselor?

5 A. I don't believe so.

6 Q. Is there some reason why he would not
7 consult with a mental health provider?

8 A. I don't think he needs mental health. I
9 think it's his head injury. I think I'm going to
10 have to deal with this person who he becomes and
11 ends up being. But he'll always, I think, be
12 medicated, with the antidepressant, at least.

13 Q. So you don't think he needs the services
14 of a psychiatrist or psychologist or mental health
15 counselor?

16 A. What could they do for him?

17 Q. I don't know. I'm asking you.

18 A. I don't know, either.

19 Q. Other than that initial phone call, what
20 else has he told you about how this occurred, about
21 the actual way the accident happened?

22 A. Pretty much the same way he told you.

23 Q. What has he told you?

24 A. That he was standing there at the dock,
25 he'd counted his corn, he -- the guy hit him, he

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1 went flying into the tractor-trailer. If he didn't
2 yell and get his attention, the guy would have cut
3 him in half, is what Mike had originally said. And
4 everybody there was nice, they called the ambulance,
5 somebody there picked him up, brought him back to
6 his truck, everything was complete, ready for him to
7 go. Pretty much the same thing he told you.

8 Q. Okay. Did he tell you that he had
9 watched the forklift driver make this same route two
10 or three times before the accident happened?

11 A. I believe he said, "I just don't know
12 why the guy didn't stop this time."

13 Q. Okay.

14 A. Like he stopped. Mike said that to me.

15 Q. Did he tell you that he could see the
16 forklift driver for his whole route?

17 A. No, he didn't. He just said the
18 forklift. He never said driver.

19 Q. Okay. Right. But did he say he could
20 see the forklift as it traveled towards him the
21 whole way coming out of the cooler?

22 A. Uh-huh (positive response), yes.

23 Q. Did he tell you any reason why he didn't
24 move out of the way sooner?

25 A. He couldn't -- what he told me was he

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1 didn't have time to react.

2 Q. Okay. Other than time, did he give you
3 any other reason why he didn't move any sooner?

4 A. No.

5 Q. Have you been to this location --

6 A. No.

7 Q. -- where it happened? You talked to any
8 witnesses?

9 A. No.

10 Q. Other than Mr. Newcomb?

11 A. Oh. Correct.

12 Q. Yeah. But nobody else?

13 A. Nobody else.

14 Q. You know that where this happened was an
15 industrial-type area?

16 A. I'd assumed that, yes.

17 Q. Yeah. And you'd agree with me that it's
18 important in an industrial-type environment to be
19 careful what's going on around you?

20 A. Correct. Also, but Mike's been a truck
21 driver for how many years?

22 Q. And truck driving safety is a major
23 issue, is it not?

24 A. And he is like the biggest safety nut.
25 He even is very cautious with us driving. He --

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1 like my children are the most defensive drivers,
2 because of the education Mike had. Like he's taught
3 them you don't drive for yourself, you drive
4 watching out for the other guy --

5 Q. Okay.

6 A. -- like always.

7 Q. Okay.

8 A. So safety is a big issue with Mike.
9 Like he's a safety nut, I would say.

10 Q. Okay. And you'd agree with me that in
11 an industrial environment where there are forklifts
12 and heavy loads moving around, it's important there
13 to be careful as well?

14 A. Yes.

15 Q. Just like out on a highway?

16 A. Yes.

17 Q. Okay. If there -- an area where there
18 was a wet floor, that would be another area it would
19 be important to be careful --

20 A. Correct.

21 Q. -- on a wet floor? It's important to
22 look out for those kind of things, to be aware of
23 that there are either wet floors or moving vehicles
24 or heavy loads around, right?

25 A. Correct.

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1 Q. If you're -- you've got to associate --
2 or not associate but familiarize yourself with your
3 surroundings in that kind of situation, correct?

4 A. Correct.

5 Q. It's important to look out for any signs
6 and warnings in the area?

7 A. Correct.

8 Q. And if there are signs and warnings,
9 it's important to obey those warnings, correct?

10 A. Correct.

11 Q. The signs and warnings are there to
12 protect us, right?

13 A. Correct.

14 Q. So if we disobey those, then we are
15 putting ourselves at risk?

16 MR. HELMS: Object to the form. You
17 can answer the question.

18 Q. Would you agree with me that if you
19 disobey --

20 A. Correct.

21 Q. -- a sign or warning, you're putting
22 yourself at some risk?

23 MR. HELMS: Object to the form.

24 A. Yes.

25 Q. And that by seeing a sign or warning, it

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1 should put you on notice of whatever that sign is
2 warning you about?

3 A. Correct.

4 Q. If there are rules, it's important that
5 we follow the rules?

6 A. Yes.

7 Q. Especially safety rules?

8 A. Yes.

9 Q. And if there's a rule or a sign that we
10 don't understand, it's important to ask questions so
11 that you know what the risks are?

12 A. Yes.

13 Q. That's -- understanding what the sign
14 means is part of being safe, is it not?

15 A. I would say.

16 Q. Okay. In the hospital, y'all have rules
17 that you have to follow, correct?

18 A. Correct.

19 Q. Regulations that you have to abide by?

20 A. (Witness nods head affirmatively.)

21 Q. Yes?

22 A. Yes.

23 Q. And if you're working in the hospital
24 and there's a rule or regulation or a warning and
25 you don't understand, you would stop and ask

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1 questions to be safe to make sure you understood it,
2 correct?

3 A. Correct.

4 Q. I believe that is all that I have,
5 Ms. Newcomb. I appreciate your time.

6 A. Thank you.

7 (Videotaping Stopped)

8 (Whereupon, the deponent or a party
9 having specifically reserved reading and signing of
10 the deposition, the taking of the deposition was
11 concluded at 3:55 p.m. the same date.)

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1 C E R T I F I C A T E

2 STATE OF GEORGIA,

3 COUNTY OF TIFT:

4 I hereby certify that the foregoing
5 transcript was taken down, as stated in the caption,
6 and the questions and answers thereto were reduced
7 to typewriting by computer-aided transcription under
8 my direction; that the foregoing pages 1 through 44
9 represent a true, complete, and correct transcript
10 of the evidence given; and I further certify that I
11 am not of kin or counsel to the parties in the case,
12 am not in the regular employ of counsel for any of
13 said parties, and am in no wise interested in the
14 result of said case.

15 I further certify that the original of
16 this deposition will be filed with Mark Pickett,
17 Esquire, Counsel for the Defendants.

18 This the 17th day of December 2015.

19

20

21

22 _____
DEBBIE PAULK MIXON, CCR-B-652
Notary Public
23 My Commission Expires 06/05/2016
24
25

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Deposition of KATHY C. NEWCOMB

ERRATA SHEET

I do hereby certify that I have read all questions propounded to me and all answers given by me and that:

_____ 1) There are no changes noted.

_____ 2) The following changes are noted:
Corrections to be made pursuant to Rule 30(7)(e) of the Federal Rules of Civil Procedure and/or Georgia Code Annotated 9-11-30(e), both of which read in part: Any changes in form or substance which you desire to make shall be entered upon the deposition...with a statement of the reasons given...for making them. Accordingly, to assist you in effecting corrections, please use the form below:

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17 If supplemental or additional pages are necessary,

18 please furnish same in typewriting annexed to this

19 deposition.

20 _____

21 _____

22 _____

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KATHY C. NEWCOMB

16 _____

17 _____

18 Signed before me this _____ day of

19 _____ 2 _____

20 _____

21 _____

22 Witness

23 _____

24 _____

25 _____